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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO
10/657,739	09/08/2003	Robert P. Micciche	460.1888USV	8934
7590 08/23/2004			EXAMINER	
CHARLES N.	J. RUGGIERO,ESQ.	MILLER, WILLIAM L		
,	REELEY, RUGGIERO &	ART UNIT	PAPER NUMBER	
10TH FLOOR			ARTONII	PAPER NUMBER
ONE LANDMARK SQUARE			3677	
STAMFORD, CT 06901-2682			DATE MAILED: 08/23/2004	

Please find below and/or attached an Office communication concerning this application or proceeding.

\	Application No.	Applicant(s)				
	10/657,739	MICCICHE ET AL.				
Office Action Summary	Examiner	Art Unit				
	William L. Miller	3677				
The MAILING DATE of this communicatio Period for Reply	n appears on the cover sheet wi	th the correspondence address				
A SHORTENED STATUTORY PERIOD FOR R THE MAILING DATE OF THIS COMMUNICAT! - Extensions of time may be available under the provisions of 37 C after SIX (6) MONTHS from the mailing date of this communicatic - If the period for reply specified above is less than thirty (30) days - If NO period for reply is specified above, the maximum statutory p - Failure to reply within the set or extended period for reply will, by Any reply received by the Office later than three months after the earned patent term adjustment. See 37 CFR 1.704(b).	ON. FR 1.136(a). In no event, however, may a ron. , a reply within the statutory minimum of thirt beriod will apply and will expire SIX (6) MON statute, cause the application to become AB	eply be timely filed by (30) days will be considered timely. THS from the mailing date of this communication. BANDONED (35 U.S.C. § 133).				
Status						
1) Responsive to communication(s) filed on	<u>08 September 2003</u> .					
2a) This action is FINAL . 2b) ⊠	This action is non-final.					
3) Since this application is in condition for al	Since this application is in condition for allowance except for formal matters, prosecution as to the merits is					
closed in accordance with the practice un	der <i>Ex par</i> te <i>Quayle</i> , 1935 C.D	. 11, 453 O.G. 213.				
Disposition of Claims						
4) Claim(s) 12-16 is/are pending in the appli	cation.					
4a) Of the above claim(s) is/are wit	hdrawn from consideration.					
5) Claim(s) is/are allowed.						
6)⊠ Claim(s) <u>12-16</u> is/are rejected.						
7) Claim(s) is/are objected to.						
8) Claim(s) are subject to restriction a	and/or election requirement.					
Application Papers						
9)☐ The specification is objected to by the Exa	miner.					
10) The drawing(s) filed on is/are: a)] accepted or b)☐ objected to	by the Examiner.				
Applicant may not request that any objection to		• •				
Replacement drawing sheet(s) including the c	·	* * * * * * * * * * * * * * * * * * * *				
11) ☐ The oath or declaration is objected to by the	ne Examiner. Note the attached	Office Action or form PTO-152.				
Priority under 35 U.S.C. § 119						
12) Acknowledgment is made of a claim for fo a) All b) Some * c) None of: 1. Certified copies of the priority documents. 2. Certified copies of the priority documents.	ments have been received.					
Copies of the certified copies of the	priority documents have been	received in this National Stage				
application from the International B	•	•				
* See the attached detailed Office action for	a list of the certified copies not	received.				
Attachment(s)						
1) Notice of References Cited (PTO-892)	4) Interview S	Summary (PTO-413)				
2) Notice of Draftsperson's Patent Drawing Review (PTO-94	8) Paper No(s	s)/Mail Date nformal Patent Application (PTO-152)				
 Information Disclosure Statement(s) (PTO-1449 or PTO/S Paper No(s)/Mail Date <u>02202004</u>. 	6) Other:	· · · · · · · · · · · · · · · · · · ·				

DETAILED ACTION

Priority

1. Parent application 09/501,542 has become a patent, and thus the expression "now Patent No. 6,715,772" should follow the filing date of the parent application in the first sentence of the specification.

Claim Objections

2. Claims 12 and 16 are objected to because of the following informalities: the phrase "according to claim 1" must be replaced with the gasket structure recited in canceled claim 1. Appropriate correction is required. (Note: For purposes of examination, claims 12 and 16 are being viewed as including the gasket structure recited in canceled claim 1.)

Claim Rejections - 35 USC § 103

- 3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:
 - (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.
- 4. Claims 12-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over the admitted prior art (hereinafter "APA") in view of Barna et al. (US#5492336).
- 5. The APA (see paragraph "2" of the "Description of the Prior Art" section of the specification of the instant application) discloses a method of venting gas from a positive pressure generating system in a package, and a method of sealing an opening in a package, comprising securing a closure fitting, namely a trigger spray or finger pump, having a gasket about an opening of the package wherein the gasket forms a seal that is capable of venting gases

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while preventing liquid from leaking therefrom. The gasket comprises a liquid impermeable core having inherent opposing first and second sides, and a single (or first) outer layer connected to one of the sides of the core wherein the outer layer is made of a gas permeable membrane enabling gas to move out of the package (inherently including the tangential direction).

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6. Regarding claims 12 and 16, the APA fails to disclose the gasket including a second outer layer connected to the other side of the core wherein the second outer is also made of a gas permeable membrane as claimed by the applicant. However, Barna discloses a gasket 10 comprising a liquid impermeable core 12 having opposing first and second sides, and first and second outer layers 14 connected to respective core sides wherein the outer layers are made of a gas permeable membrane. (Note: Barna discloses the materials used for the core and first and second outer layers are prepared by the process taught by Gore (US#3953566) wherein Gore teaches the materials may transmit gases while blocking liquids (col. 5, lines 20-30)). Barna discloses the gasket provides an effective long-term seal under pressure, while being durable, chemical and thermal resistant, non-contaminating, and easy to install (col. 3, lines 15-32). Therefore, as taught by Barna, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the APA by utilizing a gasket having a liquid impermeable core and first and second outer layers connected to respective core sides wherein the outer layers are each made of a gas permeable membrane to provide an effective long-term seal under pressure, which is durable, chemical and thermal resistant, non-contaminating, and easy to install.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See PTO-892.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William L. Miller whose telephone number is 703 305 3978. The examiner can normally be reached on Tuesday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. Swann can be reached on 703 306 4115. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

WLM 08-18-2004 William L. Miller Primary Examiner

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